

[REDACTED]

Employer Identification Number:
Key District: [REDACTED] (A)

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax as an organization described in section 501(c)(6) of the Internal Revenue Code.

The information submitted indicates that you were incorporated on [REDACTED] under the Nonprofit Mutual Benefit Corporation Law of the State of [REDACTED]. Your Articles of Incorporation state that the purposes for which you were formed are pleasure, recreation, and other nonprofitable purposes including the promotion and enhancement of the quality of life and public image of the community of [REDACTED]. Your bylaws state that within the context of your general purposes, you shall advertise promoting [REDACTED] and organizing and sponsoring community activities.

Your bylaws state that any person dedicated to your purposes and approved by your board of directors shall be eligible for membership, and that you shall have four classes of membership: Founding, Sponsoring, Sustaining, and Associate. Your bylaws also state that your Founding and Sponsoring members shall have the right to vote on the election of directors, on the disposition of all or substantially all of your assets, on any merger and its principal terms, and on any election to dissolve the corporation. If you are dissolved, your bylaws state that your Founding and Sponsoring members shall receive a pro rata distribution of all your assets, exclusive of those held in charitable trust, remaining after payment or provision for payment of your obligations and debts and provision for any other payment required under applicable law. In your application dated [REDACTED], you state that you have four (4) Sponsoring members, two (2) Founding members, six (6) Sustaining members, and no (0) Associate members.

[REDACTED]

In your application for recognition of exemption you state that your primary activity is to reach as many people as possible with the [REDACTED] message. You state that you educate the community at large about [REDACTED], where you are located, and what you have to offer, and that your ultimate goal is to increase the residential population of [REDACTED]. You state that you communicate your message through a number of different advertising and marketing vehicles, mass media being the primary focus; you also produce support pieces to provide continuity, including video cassettes, presentation folders, presentation binders, and related inserts. In your information flier, you state that you are a gated community with wide-open spaces, stately oaks, five lakes, and a beautiful river to make an idyllic setting for families; you state there is plenty to do including hiking, biking, boating, golf, tennis, and swimming.

In your letter dated [REDACTED], you state that you were formed by concerned residents to address concerns regarding the falling property values, and who felt there was a need to promote your community. You state that [REDACTED] is not a city or town, but is a gated community which is a common interest development that has been developed by various real estate development companies in separate phases of development. You state that the original goal of increasing property values and encouraging development and construction was consistent with the original plan for the community, and you wanted to get out the message that while [REDACTED] is an upscale community, the homes are very affordable. You state that you are an association of persons having a common interest in promoting [REDACTED] as the place to live, and that your common goal of informing the public of the advantages of buying in [REDACTED] helps the developers and the homeowners with increased community recognition and property values. You state that advertising promotion is your main efforts, taking up a least 95% of your total time and contribution revenue.

Section 501(c)(6) of the Code provides for the exemption from federal income tax of business leagues, chambers of commerce, real-estate boards, or boards of trade, not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(6)-1 of the Income Tax Regulations provides that a business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind

ordinarily carried on for profit. It is an organization of the same general class as a chamber of commerce or board of trade. Thus, its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons.

Rev. Rul. 59-391, 1959-2 C.B. 151, holds that an organization composed of individuals, firms, associations, and corporations (each representing a different trade, business, occupation, or profession), created for the purpose of exchanging information on business prospects and having no common business interest other than a mutual desire to increase the individual sales of members, is not exempt under section 501(c)(6) of the Code. The revenue ruling states that in this case, it is evident that the organization's activities are not directed to the improvement of business conditions of one or more lines of business, but rather to the promotion of the private interests of its members, which membership is limited by the organization's bylaws to one representative from each line of business. The revenue ruling concludes that while the regulations do not state that a business league must promote the betterment of general commercial welfare, they do require that the activities of the organization be directed to the improvement of business conditions of one or more lines of business.

Rev. Rul. 67-264, 1967-2 C.B. 196, holds that an association of nonprofit consumer cooperatives, which promotes the cooperative method of service, production, and distribution, membership in which is open to any organization organized and operated on a nonprofit cooperative basis, may qualify for exemption under section 501(c)(6) of the Code.

Rev. Rul. 70-641, 1970-2 C.B. 119, holds that a nonprofit organization of individuals from various professions in the field of public health and welfare, organized to develop greater efficiency in the professions and solve common problems, qualifies for exemption under section 501(c)(6) of the Code.

Rev. Rul. 77-206, 1977-1 C.B. 149, holds that cash rebates made by an association exempt under section 501(c)(6) of the Code to member and nonmember-exhibitors who participate in the association's annual industry trade show do not adversely affect the association's exempt status. In this case, the cash rebates represent a portion of an advance floor deposit paid by each exhibitor to insure the show against financial loss and the

effect of refunding a portion of the floor deposits is to reduce the exhibitors' cost of participating in the trade show. Rebates are made to all exhibitors on the same basis and may not exceed the amount of the deposits. Under these circumstances, the revenue ruling holds that such rebates do not constitute inurement of net earnings within the meaning of section 501(c)(6) of the Code and do not adversely affect the association's exempt status.

Rev. Rul. 81-60, 1981-1 C.B. 335, states that it is well established that a business league or other organization exempt under section 501(c)(6) of the Code may refund part of the dues or contributions previously paid to the organization for its activities. Such refunds are treated as reductions in dues. The revenue ruling states that refunds by a section 501(c)(6) organization must be made out of funds paid by those receiving the refunds. In contrast,

In American Kennel Club v. Hoey, 148 F.2d 920 (1945), the court held that an association of dog owners, most of whom were not in the business of raising and selling dogs, did not further a common business interest and thus was not exempt under section 501(c)(6) of the Code.

In Michigan Mobile Home and Recreational Vehicle Institute, 66 T.C. 770 (1976), a business league was denied exemption under section 501(c)(6) of the Code because it made rebates to its members who exhibited at a trade show sponsored by the organization while denying rebates to nonmember exhibitors, although members and nonmembers were charged the same rates for exhibition space.

The term "business" is construed broadly for purposes of section 501(c)(6) of the Code and includes almost any enterprise or activity conducted for remuneration. Thus, the term is broad enough to encompass professions, as explained in Rev. Rul. 70-641, supra, as well as mercantile and trading businesses. It may also include the activities of organizations, such as consumer cooperatives, which engage in business on a cooperative basis, as explained in Rev. Rul. 67-264, supra. Where there is no "business" involved, however, as explained in American Kennel Club v. Hoey, supra, exemption under section 501(c)(6) is precluded. Merely owning a home or promoting a place to live are not considered to be business purposes within the meaning of section 501(c)(6) of the Code.

Also, while your [redacted] and [redacted] will receive a [redacted] during the time of [redacted], all along. This activity is substantially the same activity as the rebate of dues, as described in Rev. Ruls. 77-206 and 81-60, and Michigan Mobile Home and Recreational Vehicle Institute, all supra. In this manner, your net earnings are considered to be inuring to the benefit of private shareholders. This is proscribed under section 501(c)(6) of the Code.

For these reasons, we conclude that you do not qualify for recognition of exemption from federal income tax under section 501(c)(6) of the Code. You are required to file federal income tax returns.

You have the right to protest this ruling if you believe that it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement must be submitted within 30 days of the date of this letter and must be signed by one of your officers. You also have a right to a conference in this office after your protest statement is submitted. If you want a conference, you must request it when you file your protest statement. If you are to be represented by someone who is not one of your officers, he/she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements.

If we do not hear from you within 30 days, this ruling will become final and copies of it will be forwarded to your key District Director. Thereafter, any questions about your federal income tax status should be addressed to your key District Director.

[REDACTED]

When sending additional letters with respect to this case to the Internal Revenue Service, you will expedite their receipt by placing the following address on the envelope:

[REDACTED]

Sincerely yours,

cc: [REDACTED]

[REDACTED]

[REDACTED]